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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Axxess Energy LLC, a Delaware
limited liability company,

Plaintiff,

v.

Clear Energy Systems, Inc., a Nevada
corporation,

Defendant.

No. 2:15-cv-01831-DJH

JOINT STATUS REPORT

The parties submit this Status Report pursuant to Magistrate Judge David K. Duncan's March 29, 2016 Minute Order (Doc. No. 39) and state as follows:

1 1. On August 15, 2014, Defendant Clear Energy Systems, Inc. (“CES”) filed its
2 voluntary petition for relief under Chapter 11 of the Bankruptcy Code in an action known
3 as *In re: Clear Energy Systems, Inc.*, Case No. 2:14-BK-12716-BKM, United States
4 Bankruptcy Court, District of Arizona (the “Bankruptcy Action”). The Bankruptcy Action
5 is pending.

6 2. On August 14, 2015, the Bankruptcy Court granted Plaintiff Axxess Energy
7 LLC (“Axxess”) relief from the automatic stay to commence this action against CES and to
8 seek recovery solely from an insurance policy, Policy No. G24099283 004, issued by
9 Westchester Fire Insurance Company (“Westchester”) to CES.

10 3. On September 14, 2015, Axxess commenced this action by filing its
11 Complaint against CES.

12 4. Axxess, CES and Westchester attended a Settlement Conference with
13 Magistrate Judge Duncan on March 29, 2016. The parties reached a settlement agreement
14 at the Settlement Conference and the terms of the parties’ agreement were set forth on the
15 record. The settlement agreement is contingent on the approval of such agreement by the
16 Bankruptcy Court. *See* Doc. No. 39.

17 5. Pursuant to the parties’ settlement agreement and the pending Bankruptcy
18 Action, Magistrate Judge Duncan ordered that a status report be filed indicating the status
19 of the approval of the settlement agreement in the Bankruptcy Action no later than April
20 29, 2016. *See* Doc. No. 39.

21 6. Axxess, CES, Westchester, and the Chapter 11 Bankruptcy Trustee executed
22 a written Settlement Agreement and Release of Any and All Claims dated April 21, 2016
23 (the “Settlement Agreement”), which is effective and enforceable upon the entry of an
24 order of the Bankruptcy Court approving the Settlement Agreement and such order
25 becoming final and non-appealable (the “Settlement Effective Date”).

26 7. On April 27, 2016, the Chapter 11 Trustee filed a Motion for Approval of
27 Settlement Agreement in the Bankruptcy Action seeking approval of the Settlement
28 Agreement. The Chapter 11 Trustee also filed therewith a Motion to Set Expedited

Hearing on his Motion for Approval of Settlement Agreement.

8. A hearing on the Chapter 11 Trustee's Motion for Approval of Settlement Agreement has not been set and the Motion for Approval of Settlement Agreement is pending before the Bankruptcy Court.

9. In accordance with the Settlement Agreement, Westchester shall pay the agreed upon settlement sum to Axxess within ten (10) business days of the Settlement Effective Date. Within ten (10) business days of Axxess' receipt and confirmation of such settlement sum being made in good funds, the parties will file a stipulation to dismiss this action with prejudice.

Dated this 28th day of April, 2016.

SACKS TIERNEY P.A.

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s/ Anthony S. Vitagliano

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